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EXAMINER

JOYNER, KEVIN

ART UNIT

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1797

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09/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,057

Applicant(s)

STEC, MICHAEL J.

Examiner

KEVIN C. JOYNER

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15, 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) 10-15, 17, 19 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-8 and 20-22 in the reply filed on August 31, 2009 is acknowledged. The traversal is on the ground(s) that Dhaemers (U.S. Patent No. 6,134,806) does not disclose the special technical feature of the invention in that the reference does not disclose an ozone generator disposed within and mounted to an enclosure, wherein mounted is defined as fixed on or in the proper backing, support, setting, etc.. This is not found persuasive because as set forth by the Applicant, on page 10 of the reply filed on August 31, 2009; Dhaemers does disclose an ozone generator that is placed within an enclosure (referenced as a bag). Further, as the Applicant is well aware, the Examiner must give the claims their broadest reasonable interpretation (See MPEP 2111 [R-5]); wherein The American Heritage Dictionary of the English Language, Fourth Edition defines mount as, "to set in position for use." As such, the ozone generator is arranged within and set into a position for use in the bag to deodorize said bag. Therefore, the special technical feature is disclosed by Dhaemers. As further pointed out by the Applicant on page 10 of said reply, the reference discloses a hook on the generator for placing into a locker. A locker is an enclosure wherein hooking the generator is mounting said generator in the locker. An alternative definition as set forth in The American Heritage Dictionary of the English Language, Fourth Edition defines mount as, "to **place** or fix on or in an appropriate support or

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setting..." Thus, the generator of Dhaemers is mounted to an enclosure as broadly defined. Still further, as pointed out by the Applicant on page 10 of said reply, the generator is clipped to a visor in a car, wherein the Applicant replies that a car is not a portable enclosure. The generator of Dhaemers is certainly disposed within and mounted to said car, and the car is most certainly portable. The American Heritage Dictionary of the English Language, Fourth Edition defines enclosure as, "the state of being enclosed," and enclosed as, "to surround on all sides." As such the car is a portable enclosure that is more than capable of being placed in a personal vehicle such as a transfer truck, wherein the generator is disposed within and mounted to said enclosure. As such, the special technical feature is disclosed by Dhaemers.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 10-15, 17, 19 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 31, 2009.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim four recites the limitation of a

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clip attaching the ozone generator to a conduit, wherein the limitation for a clip is found in claim 2 from which claim 4 depends. As such, it is unclear as to whether the Applicant is referring to the previous clip, or a new and entirely different clip. Appropriate action is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kudo (Japanese Document No. JP 09239018 A).

Kudo discloses a Portable descending apparatus comprising an enclosure (1) having a closeable opening for receiving items for descending (Figure 1) and sized to be portable for carrying in a personal vehicle, and an ozone generator (15) disposed within and mounted to (paragraph 15, Figure 3) said enclosure (1) for releasing ozone within said enclosure for descending the items (See paragraphs 8-20). Concerning claim 20, the reference continues to disclose that said ozone generator is attached to said enclosure so as to be permanently mounted to said enclosure (Figure 3, paragraph 15). With regard to claim 22, the reference also discloses that the enclosure is devoid of a means for receiving ozone from a source which is exterior of said enclosure as shown in Figures 1-6.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo (Japanese Document No. JP 09239018 A) in view of Dhaemers (U.S. Patent No. 6,134,806).

Kudo is relied upon as set forth above, wherein Kudo continues to disclose that said enclosure is a closet sized for receiving hunters' clothing and gear, said closet having a rod positioned for receiving hangers for hanging of clothing as shown in Figure 1. Kudo does not appear to disclose a clip mounting said ozone generator to said rod. Dhaemers discloses a portable descending apparatus with an ozone generator (Figures 24-29) that is mounted in a closet on a rod (column 8, lines 60-68) by a hook. The reference continues to disclose a clip on said ozone generator that is fully capable of being mounted to the rod in a closet (column 3, lines 4-10). Since Dhaemers specifically discloses an ozone generator mounted to a rod in a closet by a hook and an alternative clipping apparatus that is capable of mounting to a rod in a closet, then it would have been obvious to one of ordinary skill to substitute the hook and utilize the clip to mount said generator to the rod in a closet in order to achieve the predictable

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result of mounting said generator in the closet. Dhaemers also discloses that the generator comprising a clip that is mounted to the rod in a closet produces a portable apparatus that is easily accessible and removable for other applications (column 8, lines 53-68; column 9, lines 1-13). Furthermore, concerning claim 6, the ozone generator of Dhaemers is adapted for both A.C. and D.C. electrical power operation (column 8, lines 13-39). As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the ozone generator of Dhaemers in the closet of Kudo in a manner wherein the generator is mounted to the rod of the closet to provide ozone to said closet from a portable apparatus that is easily accessible and removable for other applications as exemplified by Dhaemers.

With regard to claim 8, Kudo does not appear to specifically disclose the particulars of the ozone generator. Thus, one would look to the prior art in order to determine such a suitable system for the apparatus. As such, Dhaemers continues to disclose that such a suitable generator is a type which has corona discharge plates through which oxygen passes for producing ozone (column 4, lines 25-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the corona discharge generator of Dhaemers in the apparatus of Kudo, as such is considered to be a sufficient generator for the descenting of clothes as exemplified by Dhaemers.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo (Japanese Document No. JP 09239018 A) in view of Dhaemers (U.S. Patent No. 6,134,806) and Chen (U.S. Publication No. 2003/0111435).

Kudo in view of Dhaemers is relied upon as set forth above. While Kudo continues to disclose a conduit (S) with the closet extending along a wall thereof capable of leading a cord from the ozone generator to a bottom of the closet as shown in Figure 1; Kudo in view of Dhaemers does not appear to disclose an electric cord connected to said ozone generator for supplying power to said generator from a source outside of the closet. However, it is extremely well known in the art to utilize a power cord that is connected to an outside source to provide power to an apparatus in a closet. One such example is given by Chen wherein the reference discloses a closet (Figure 5) with a rod and an electrical apparatus disposed within and mounted to said closet. The reference continues to disclose that the electrical apparatus further comprises an electric cord connected to said apparatus for supplying power to said apparatus from a source outside of the closet, wherein said cord runs through a conduit along the wall and exteriorly thereof (paragraphs 39-43; Figures 3, 5 & 7). As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Kudo in view of Dhaemers to include an electric cord connected to said ozone generator and leading said cord through a conduit to an exterior power source thereof, in order to provide a stable power supply to the generator as exemplified by Chen.

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10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo (Japanese Document No. JP 09239018 A) in view of Dhaemers (U.S. Patent No. 6,134,806), Chen (U.S. Publication No. 2003/0111435) and Wechter et al. (U.S. Publication No. 2003/0089010).

With regard to claim 4, although Kudo in view of Dhaemers does not appear to disclose a clip for attaching the ozone generator to the conduit, Dhaemers continues to disclose a Velcro strap for fastening the generator (column 9, lines 20-35), but does not disclose a second clip for fastening the generator. However, a mere substitution of a clip for Velcro on a portable apparatus is extremely well known in the art. Wechter discloses a portable handheld device with fastening means for attaching to a variety of materials (paragraph 4). The reference continues to disclose that the device further comprises any one of a number of fastening means including either Velcro or a clip in order to removably attach said device to a surface (paragraph 11). Since both references teach a fastening means on a portable apparatus, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the clip for the Velcro strap to achieve the predictable result of fastening the device to a surface as exemplified by Wechter, wherein the apparatus is fully capable of attaching to said conduit.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo (Japanese Document No. JP 09239018 A) in view of Felsenthal (U.S. Publication No. 2003/0066767)

Kudo is relied upon as set forth above. Kudo does not appear to disclose that the closet further comprises wheels. Felsenthal discloses a portable closet apparatus for the storage and deodorization of clothing (paragraphs 2-10). The reference continues to disclose that the closet comprises a set of wheels (82) in order to allow an operator to push or pull the closet from room to room as needed. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the closet of Kudo to include wheels on said closet in order to allow an operator to push or pull the closet from room to room as needed as exemplified by Felsenthal.

12. Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kudo (Japanese Document No. JP 09239018 A) in view of the Applicants Admitted Prior Art.

With regard to claim 7, Kudo does not appear to specifically disclose the particulars of the ozone generator. Thus, one of ordinary skill would appropriately utilize a conventional mechanism for the ozone generation apparatus. As set forth in paragraphs 18 and 19 of the Applicant's instant specification, commonly known ozone generators in the art include ionization generators such as the Bora Living Air electronic air-purification system from EcoQuest International wherein such an apparatus operates to provide ozone output of about 30 to 70 mg per hour (concerning claim 21). As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the commonly well known and conventional ionization generator such as

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the Bora Living Air electronic air-purification system from EcoQuest International in order to successfully provide a practical ozone generation means as exemplified by the Applicant's Admitted Prior Art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KCJ

/Sean E Conley/

Primary Examiner, Art Unit 1797